IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2423 OF 2005

Mahavir Construction Co. ...Petitioner
Versus
State of Maharashtra & Ors. ...Respondents

Shri V.S.Gharat for the Petitioner.
Shri M.H.Solkar, A.G.P for Respondent No.1.
Shri Vijay Patil for Respondent No.2.

CORAM : S.C. DHARMADHIKARI, J.
DATE : JANUARY 16, 2006.

P.C.:

1. This petition under Article 227 of the Constitution of India challenges orders passed by the Appellate Court and Revisional Authorities exercising powers under the Maharashtra Land Revenue Code levying penalty on the petitioner for illegal excavation. The Appellate as well as the Revisional Authorities have categorically observed that for the excavation activities carried out by the petitioner they could not produce any document which can be termed as a permission from either the State or the Maharashtra State Road Development Corporation. The submission of Shri Gharat is that one M/s Prakash Building Associates Ltd., and M/s Prakash Engineering and Construction Company were jointly awarded the contract for construction of Mumbai-Pune Expressway and as per their consultant's letter (Exh.A, Page-18), it is clear that they were so permitted. He submits that the petitioners are the sub-contractors of M/s Prakash Engineering and Construction Company.

2. I am unable to accept this contention of Shri Gharat. The Appellate as well as the Revisional Authorities have concurrently found that the petitioner could not produce any document either permitting it to excavate soil independently or recognising its right as sub-contractor of M/s Prakash Engineering and Construction Company. The submission of Shri Gharat that the petitioner was issued a show cause notice and, therefore, should have been heard, is also of no assistance because no prejudice is caused to the petitioner in this Case. Admittedly, the Appellate as well as the Revisional Authorities have given him full opportunity to produce relevant materials including the permissions. In the light of the finding of fact that permission or authority to excavate not being produced, the decision to levy penalty, cannot be faulted.

3. No case is made out for interference under Article 227 of the Constitution of India with the above finding of fact which is consistent with the materials produced before the Authorities. Petition stands dismissed.

(S.C.DHARMADHIKARI,J.)